THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.28134 OF 2005

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Dated: 02-12-2006

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Between

N. Sujathamma, W/o. N. Hanumantha Reddy

Fair Price Shop Dealer, R/o. H.No.1-390,

Panchalingala Village, Kurnool Mandal and

District.

...PETITIONER

AND

The District Collector, Kurnool,

Kurnool District and others.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the third respondent in issuing the impugned suspension order vide Rc.B/1547/2004, dated 11.11.2004 and impugned confirmation order passed by the second respondent in the appeal in Rc.CS.2/486/2004 dated 11.11.2005 suspending his authorization for the fair price shop dealership of Panchalingala village, Kurnool Mandal and District on flimsy and untenable grounds as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner was appointed as the fair price shop dealer of Panchalingala village, Kurnool Mandal and District 15 years ago and since

then she has been distributing the essential commodities without any complaints whatsoever from any corner. While so, the Revenue Divisional Officer – third respondent by order dated 11.11.2004 suspended the authorization of the petitioner on the report submitted by the Mandal Revenue Officer, Kurnool. Against the said order, the petitioner filed an appeal before the Joint Collector – second respondent. When no orders were passed on the appeal, the petitioner filed WP.No.22788 of 2004, which was disposed of by this Court by order dated 09.12.2004 directing the respondents to continue the petitioner as fair price shop dealer pending disposal of the appeal. However, the appeal was dismissed by order dated 11.11.2005. Against the said order,
the petitioner filed a revision before the first respondent questioning the suspension order of the third respondent as confirmed by the second respondent.

Perusal of the order of the third respondent dated 11.11.2004 suspending the dealership/authorization of the petitioner goes to show that the order has been passed as a measure of substantial punishment without giving any notice, without giving opportunity and without making any enquiry. It is stated in the said order that the petitioner is resident of Panchalingala Village at Sl.No.350 in voter list in H.No.1-390 and her husband's name is not enrolled in the voter list, except the name of petitioner which was enrolled with malafide intention to run the fair price shop and to establish that she is resident of Panchalingala village.

Whether the petitioner is not residing in the said village and whether she is not distributing the essential commodities is a matter to be enquired into in accordance with law by giving a show cause notice, but a final order has been passed as measure of substantial punishment without conducting enquiry, which is unsustainable. Therefore, this Court is of the view that the appeal filed by the petitioner was illegally dismissed without taking into consideration any of the contentions of the petitioner and it is unnecessary to pursue the revision said to have been filed by the petitioner as the initial order passed by the Revenue Divisional Officer itself has been made as a final order without conducting any enquiry.

Accordingly, the order of the Revenue Divisional Officer dated 11.11.2004 and the order of the Joint Collector dated 11.11.2005 confirming the order of the Revenue Divisional Officer, are set aside keeping it open for the Revenue Divisional Officer, Kurnool to issue a show cause notice to the petitioner framing specific charges and take appropriate action in

accordance with law and till then the petitioner shall be permitted to distribute the essential commodities.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

January 2, 2006

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